THE CASE OF THE MISSING SPY BENEFITS p.16 NYT 7 OCT 82

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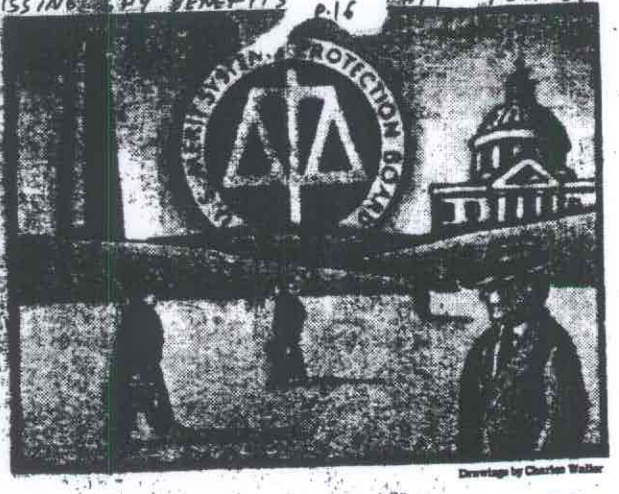
WASHINGTON, Oct. 6 — In the sometimes curious ways of Washington, a still-pending case involving espionage and intrigue has come up in the form of an employment grievance.

It is an employment dispute, however, that national security officials believe could have far-reaching implications for the Central Intelligence Agency and other agencies that operate outside the Civil Service system. It involves the special arrangements, despite all the secrecy, surrounding the case, the grievance has produced a paper record, some of which is public, that offers a rare inside look at the methods used to establish and operate a spy network.

The case was being considered by the Merit Systems Protection Board, a little-known Government agency responsible for reviewing the grievances of dismissed or demoted Federal workers that is not normally a repository of intelligence secrets.



Drawings by Charles Waller

Courtroom Ordered Closed

Employment records and other soporific bureaucratic papers are its customary currency. Last July, budget cuts forced the staff to work half-time for two weeks, and lately officials have been digging out from under more than 11,000 appeals filed by dismissed air traffic controllers.

That's why a bit of a stir was caused last year when a special, lockable file cabinet was wheeled into the office of the board's chief administrative law judge, John J. McCarthy, and security checks were run on several of his assistants. Soon thousands of pages of classified documents were delivered by the Navy.

Then, contrary to board practice, Judge McCarthy ordered his courtroom closed and guarded.

The case was brought by more than a dozen agents of a secret naval intelligence organization called Task Force 157, which was formed in 1966 and disbanded in 1977. The former agents contend they are entitled to Civil Service benefits for the work on the task force; the Government counters that they were never formal Federal employees.

The Merit Board case is not the first time the existence of Task Force 157 has been exposed in public. Some information about its operations was first published in 1977 and the Navy unit has figured in the case of Edwin P. Wilson, the former C.I.A. agent charged with illegally aiding Libyan terrorists. But the employment case has brought to light new information about the task force and its members.

The force handled a number of sensitive missions for the Navy, including monitoring the movement of nuclear weapons at sea by the Soviet Union. The force also operated a secret communications system that was used in 1971 by Henry A. Kissinger, President Nixon's national security adviser, to communicate with the White House on his first visit to China.

Suit for Civil Benefits

The former agents, according to their attorney, Bernard Fensterwald 3d, contend that their work for the Navy should be treated as regular Government service and that they should receive credit toward retirement pay and other Civil Service benefits that they were denied after the organization was closed down.

They say they were given classified employment contracts approved by Navy officials, that they signed official secrecy agreements, were paid on a salary scale identical to that of the Civil Service, were supervised by Navy officers, received special United States passports and lived in Government quarters.

Documents filed by one of the appellants, Jerry W. Walters, who now is employed by the Customs Service, show that he was stationed in San Diego and Yokosuka, Japan, while working for the task force in the 1970's. In that time, he traveled on an "official" American passport obtained for him by the Navy, lived in Navy housing and handled a variety of sensitive intelligence assignments.

The Government, however, declined to credit Mr. Walters for his years of employment with the task force when he joined the Customs Service. Mr. Walters, citing warnings by the Navy about the classified nature of his work, said he could not comment on the case or even confirm the existence of Task Force 157.

Another former agent, Elizabeth A. Crotty, in a letter to Judge McCarthy, wrote, "At the time I was working for TF 157, I honestly thought I was working as a civil servant for the the U.S. Navy." She added that at one point she ran a "delicate operation in West Berlin" and "assumed several identities and led a life of secrecy."

Government's Argument

The Government, which initially rejected the former agents' plea in 1979, argues that though they worked on Navy business, they were never formally appointed to a Civil Service job and therefore do not qualify for the benefits. The former agents, the Government says, were officially employed by private corporations set up by the Navy to disguise the operations of the task force. Further, the Government contends that these "cover" corporations, including Jacques Francois and Company, Pierce Morgan Associates Inc., and Overseas Management and Training Services Inc., provided health and retirement benefits.

In addition, according to the Government, the former agents were not hired by Navy officials with the authority to make Civil Service appointments. At best, the Government argues, the agents had the status of contract employees.

Concerned that a ruling in favor of the appellants might change the rules of the game for contract agents, the C.I.A., which employs many of them, filed a brief with Judge McCarthy in July. It warned that a decision concluding that the kind of employment relationship used by the task force was tantamount to appointment in the Civil Service "would deprive C.I.A. of flexibility essential to agent operations."

Documents filed as part of the case provide the names of 10 companies set up in the United States by the Navy to shield the operations of the task force, illustrating how intelligence agencies use so-called "commercial cover" to disguise their operations. The documents also show how the Navy "laundered" payments to the agents through the companies, and describe the different kinds of fictitious identities used by the agents. These included posing as businessmen, consultants, government officials and shipping agents.

One former task force member who is not a party to this grievance is Mr. Wilson, who is awaiting trial on charges that he helped Libya establish a terrorist training project. Mr. Wilson, according to former intelligence officials, worked for the force from 1970 until its dissolution and helped set up and operate several of the bogus companies.

The case has been pending before Judge McCarthy for more than a year. Judge McCarthy, who said he has been swamped with cases involving former air traffic controllers, asserted that the matter of Task Force

157 was currently under active consideration, adding, "It's not an average case."